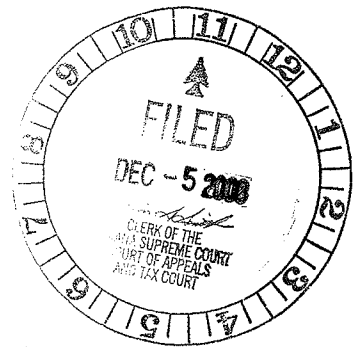


In the
Indiana Supreme Court



James SWAN and V. Marcella Swan
Plaintiffs

vs.

John L. SMITH
Defendant

) Supreme Court No. 27S00-0811-SJ-611
)
)

) Case No. 27D02-0708-PL-176
)

) in the Grant Superior Court
)

ORDER REMANDING JURISDICTION TO TRIAL COURT

The Clerk of the Grant Superior Court, by letter dated November 17, 2008, has indicated that due to conflicting information in the trial court's records he is unable to determine whether a delay has occurred such that he should withdraw the case from the Judge Randall L. Johnson. The Clerk requests this Court make a ruling on a praecipe for withdrawal.

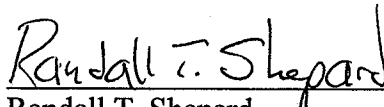
For better or for worse, Trial Rule 53.1 places this call in the hands of Clerks rather than in ours. Where the Clerk is unable to withdraw, or does not do so, a case remains assigned to its present judge.

IT IS, THEREFORE, ORDERED that the Court declines the clerk's request and remands this matter to the Grant Superior Court and Special Judge Johnson.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Randall L. Johnson, Grant Superior Court No. 2, 101 East Fourth Street, Marion, IN 46952-4004, and to the Clerk of the Grant Superior Court.

The Clerk of the Grant Superior Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this 5th day of December, 2008.


Randall T. Shepard
Chief Justice of Indiana